

Remarks/Arguments

Claims 1-17, 20, and 23-28 are pending in the application.

It is indicated in the Outstanding Office Action that claims 3, 5, 7, 11, 16, 17 and 20 would be allowable if rewritten in independent to include the features of the base claim and any intervening claims. This indication of allowable subject matter is noted with appreciation.

In the Final Office Action mailed July 20, 2006, claims 1, 2, 4, 8, 10, 12-15 and 23-28 were rejected under 35 U.S.C 103(a) as being unpatentable over U.S. Patent No. 4,143,820 (Bright, Sr.). In addition, claim 6 was rejected under 35 U.S.C 103(a) as being unpatentable over Bright, Sr. in view of U.S. Patent No. 5,111,995 (Dumitrascu et al., hereinafter "Dumitrascu") and claims 9 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Bright, Sr. in view of Dumitrascu. and further in view of U.S. Patent No. 4,226,368 (Hunter).

By this Response, claims 1 and 23 – 25 are amended in the manner agreed upon in the November 7, 2006 interview, and the rejections under 35 U.S.C. 103 are traversed.

REJECTION OF CLAIMS 1, 2, 4, 8, 10, 12-15, AND 23-28

The Examiner rejected claims 1, 2, 4, 8, 10, 12-15 and 23-28 under 35 U.S.C 103(a) as being unpatentable over Bright, Sr.

RESPONSE

Applicant has amended claims 1 and 23 – 25 in the manner agreed upon in the November 7, 2006 interview. In view of these amendments, Applicant submits that the presently claimed subject matter is sufficiently defined over the prior art of record. Reconsideration and withdrawal of the rejection is requested.

To establish a *prima facie* case of obviousness, the Examiner must establish: (1) that some suggestion or motivation to modify the references exists; (2) a reasonable expectation of success; and (3) that the prior art references teach or suggest all of the claim limitations. *Amgen, Inc. v. Chugai Pharm. Co.*, 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970).

Applicant submits that all of the features of the presently claimed invention are not disclosed, taught or suggested in the cited prior art.

Independent claim 1 has been amended, and recites, in part, an extruded pipe comprising a drip-irrigation plug emitter “mounted *entirely* within the pipe” and having “a drip outlet in fluid communication with a second end of the pipe *away from the emitter*. ” (Present application, Claim 1, emphasis added)

Independent claim 23 recites, in part, an extruded pipe adapted to be cut into pipe sections, each pipe section comprising a drip-irrigation plug emitter “mounted *entirely* within the pipe” and having “a drip outlet in fluid communication with a second end of the pipe section *away from the emitter*. ” (Present application, Claim 23, emphasis added).

Independent claims 24 and 25 recite, in part, extruded pipes comprising a drip-irrigation plug emitter “mounted *entirely* within the pipe” and having “a drip outlet in fluid communication in a second end of the pipe *away from the emitter*. ” (Present application, Claims 24 and 25, emphasis added).

Bright Sr. discloses a pressure regulating emitter 12 for a drip irrigation pipe 10 externally mounted into an aperture in the wall of the pipe, so that one portion is left outside the pipe and the other portion is located inside the pipe. Fluid exits from the emitter at a side of the pipe where “the

flow path through the apertures is short and direct" (Bright, Sr., col. 2, lines 12 – 13), and not at a second end of the pipe away from the emitter.

Bright Sr. fails to disclose, teach, or suggest an emitter "mounted *entirely* within the pipe" (or "pipe section") and having "a drip outlet in fluid communication with a second end of the pipe" (or "pipe section") "*away from the emitter.*" (Present Application, Claims 1, 23 –25) These features were recognized by the Examiner in the November 7, 2006 interview as defining the presently claimed subject matter over Bright Sr.

Applicant respectfully submits that the Examiner has accordingly failed to make a *prima facie* case of obviousness. Claims 2, 4, 8, 10, 12-15, and 26 – 28 are believed to be patentable not only by virtue of their direct or indirect dependency on claim 1 but also for the totality of features recited therein.

REJECTION OF CLAIMS 6, 9, AND 11

In the Outstanding Office Action, the Examiner rejected claim 6 under 35 U.S.C 103(a) as being unpatentable over Bright, Sr. in view of Dumitrascu.; and, rejected claims 9 and 11 under 35 U.S.C. 103(a) as being unpatentable over Bright, Sr. in view of Dumitrascu. and further in view of Hunter.

RESPONSE

Claims 6, 9, and 11 depend directly or indirectly from Claim 1, which Applicant submits is in condition for allowance.

Applicant submits that Dumitrascu and Hunter fail to cure the deficiencies of Bright, Sr. Dumitrascu is drawn to a drip irrigation tube formed from an elongated web, and comprising

discrete emitter elements disposed at spaced intervals along the web. (Dumitrascu, Abstract).

Dumitrascu fails to cure the deficiencies of Bright Sr., as it does not disclose, teach, or suggest an emitter “mounted *entirely* within the pipe” (or “pipe section”) and having “a drip outlet in fluid communication with a second end of the pipe” (or “pipe section”) “*away from the emitter.*” (Present Application, Claims 1, 23 –25)

Accordingly, Applicant submits that the combination of Bright Sr. and Dumitrascu fails to disclose, teach, or suggest all of the features of independent claim 1, and of claim 6 dependent therefrom, and thus that the Examiner has failed to make a *prima facie* case of obviousness.

Further still, Applicant submits that Hunter fails to cure the deficiencies of Bright Sr. and Dumitrascu. Hunter is drawn to a sprinkler head for use in a drip irrigation system, in which pressure dropping chambers comprise a plurality of series interconnected vortices disposed within stacked plates. (Hunter, Abstract)

Hunter fails to cure the deficiencies of Bright Sr. and Dumitrascu, as it does not disclose, teach, or suggest an emitter “mounted *entirely* within the pipe” (or “pipe section”) and having “a drip outlet in fluid communication with a second end of the pipe” (or “pipe section”) “*away from the emitter.*” (Present Application, Claims 1, 23 –25)

Accordingly, Applicant submits that the combination of Bright Sr., Dumitrascu, and Hunter fails to disclose, teach, or suggest all of the features of independent Claim 1, and of claims 9 and 11 dependent therefrom, and thus that the Examiner has failed to make a *prima facie* case of obviousness.

Claims 6, 9, and 11 are believed to be patentable not only by virtue of their direct or indirect dependency on claim 1 but also for the totality of features recited therein.

ALLOWABLE SUBJECT MATTER

Applicant acknowledges with appreciation the Examiner's indication that claims 3, 5, 7, 11, 16, 17 and 20 would be allowable if rewritten in independent form.

All of the above claims depend directly or indirectly from claim 1, which applicant submits is now in condition for allowance. Accordingly, Applicant requests that the Examiner withdraw all objections to claims 3, 5, 7, 11, 16, 17, and 20.

CONCLUSION

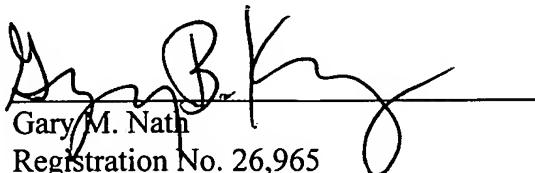
In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,
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